IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

| UNITED STATES OF AMERICA | | | | |
|--------------------------|--|---|--|--|
| | Plaintiff, |) 8:06CR287) | | |
| | vs. |) DETENTION ORDER | | |
| ОТ | TIS SIMMONS, JR., |)) | | |
| | Defendant. |) | | |
| A. | Order For Detention After waiving a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act on November 3, 2006, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i). | | | |
| B. | Statement Of Reasons For The Detention The Court orders the defendant's detention because it finds: X By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community. | | | |
| C. | contained in the Pretrial Services Report, X (1) Nature and circumstances of to the crime: a conspiral distribute more than 5 violation of 21 U.S.C. years imprisonment at the possession with intenting violation of 21 U.S.C. Services twenty years imprisonment (b) The offense is a crime of the control of the crime of | he offense charged: cy to distribute and possess with intent to 60 grams of "crack" cocaine (Count I) in § 846 carries a minimum sentence of ten 61 nd a maximum of life imprisonment; the 62 to distribute "crack" cocaine (Count II) in 63 841(a)(1) carries a maximum sentence of 64 nent. 65 violence. | | |
| | may affect when The defendant X The defendant X The defendant The defendant The defendant ties. X | appears to have a mental condition which ether the defendant will appear. has no family ties in the area. has no steady employment. has no substantial financial resources. is not a long time resident of the community. does not have any significant community of the defendant: has a history relating to drug abuse. has a history relating to alcohol abuse. has a significant prior criminal record. It has a prior record of failure to appear at | | |

DETENTION ORDER - Page 2

| | (b) | At the time of the current arrest, the defendant was on: Probation |
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| | | Parole Release pending trial, sentence, appeal or completion of |
| | (-) | sentence. |
| | (C) | Other Factors: The defendant is an illegal alien and is subject to |
| | | deportation. |
| | | The defendant is a legal alien and will be subject to |
| | | deportation if convicted. |
| | | The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal. |
| | | Other: |
| V | (4) Tho | pature, and coriousness of the danger nesed by the defendant's |
| | | nature and seriousness of the danger posed by the defendant's see are as follows: The nature of the charges in the Indictment, the |
| | | dant's prior criminal history, and the defendant's drug abuse history. |
| | (=) B . | |
| <u>X</u> | | ttable Presumptions |
| | | ermining that the defendant should be detained, the Court also relied following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) |
| | | the Court finds the defendant has not rebutted: |
| | | That no condition or combination of conditions will reasonably |
| | , , | assure the appearance of the defendant as required and the safety |
| | | of any other person and the community because the Court finds that |
| | | the crime involves: |
| | | (1) A crime of violence; or (2) An offense for which the maximum penalty is life |
| | | imprisonment or death; or |
| | | X (3) A controlled substance violation which has a maximum |
| | | penalty of 10 years or more; or |
| | | (4) A felony after the defendant had been convicted of two |
| | | or more prior offenses described in (1) through (3) |
| | | above, and the defendant has a prior conviction for one |
| | | of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed |
| | | while the defendant was on pretrial release. |
| | X (b) | That no condition or combination of conditions will reasonably |
| | <u>/(</u> (8) | assure the appearance of the defendant as required and the safety |
| | | of the community because the Court finds that there is probable |
| | | cause to believe: |
| | | X (1) That the defendant has committed a controlled |
| | | substance violation which has a maximum penalty of |
| | | 10 years or more. (2) That the defendant has committed an offence under 19 |
| | | (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in |
| | | relation to any crime of violence, including a crime of |
| | | violence, which provides for an enhanced punishment |
| | | if committed by the use of a deadly or dangerous |
| | | weapon or device). |

D. **Additional Directives**

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from

DETENTION ORDER - Page 3

- persons awaiting or serving sentences or being held in custody pending appeal; and
- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: October 3, 2006. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge